

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MAXWELL SHOE COMPANY, INC.,

Plaintiff,

v.

EDELMAN SHOE COMPANY, LLC and
SAM EDELMAN,

Defendants.

Civil Action No. 04-10694 RCL

**MOTION FOR LEAVE TO FILE REPLY
IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION**

Maxwell Shoe Co. Inc. (“Maxwell”) respectfully requests leave to file Plaintiff’s Reply in Support of Motion for Preliminary Injunction (provisionally filed herewith).

A Reply Brief is necessary to correct certain statements made by Defendants in their Opposition to Plaintiff’s Motion for Preliminary Injunction. In its Opposition Edelman has misrepresented the trademark law concerning personal names, mischaracterized the purchase and sale agreement between the parties (the “Agreement”) and misstated facts relating to Maxwell’s attempts to halt Edelman’s infringement. Maxwell respectfully submits its Reply Memorandum, and the accompanying Declaration of Ilan Barzilay to answers those errors.

No prejudice will be caused by the reply—it may be considered by the Court prior to the hearing with no delay or other impact on any party.

Respectfully submitted,

MAXWELL SHOE COMPANY, INC.

By its attorneys,

Dated: June 4, 2004

By: /s/Michael A. Albert
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LOCAL RULE 7.1 CERTIFICATION

Counsel for Plaintiff Maxwell Shoe Co. Inc., Ilan N. Barzilay conferred with counsel for Defendants Edelman Shoe Co. and Sam Edelman, Christopher Centurelli, on June 1, 2004 in an attempt to resolve or narrow the issues addressed in this Motion. Unfortunately, the parties were unable to resolve or narrow the issues addressed in this Motion.¹

/s/Michael A. Albert

¹ When Maxwell contacted counsel for Edelman to obtain their consent to the present motion Edelman refused to consent despite Maxwell extending the courtesy of assenting to each motion filed by Edelman to date. Maxwell has assented to the following procedural motions by Edelman: Motion to Enlarge Time to Respond to Complaint and to Oppose Preliminary Injunction (Docket # 6), Second Motion to Enlarge Time to Oppose Preliminary Injunction (Docket # 9), Second Motion to Enlarge Time to Respond to Complaint (Docket # 10), Motion to File A Corrected Memorandum (Docket # 15), and Motion to File Late Opposition to Preliminary Injunction (Docket # 16). Indeed, one business day after denying its assent to this motion, Edelman requested Maxwell's assent to its motion for a third extension to respond to the complaint.